

Department of Energy

§ 1024.3

officer Appeal File and supplements filed pursuant to Rule 4 of the Board's Rules of Practice, 10 CFR part 1023, which is made in the covered proceeding for which fees and other expenses are sought.

(b) A request that the presiding administrative judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 1023.326 Board decision.

The Board shall issue its decision on the application as expeditiously as is practicable after completion of proceedings on the application. Whenever possible, the decision shall be made by the same administrative judge or panel that decided the contract appeal for which fees are sought. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make the award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 1023.327 Reconsideration.

Either party may seek reconsideration of the decision on the fee application in accordance with 10 CFR 1023.120, Rule 27.

[57 FR 53542, Nov. 12, 1992, as amended at 62 FR 24808, May 7, 1997]

§ 1023.328 Judicial review.

Judicial review of a final Board decision on an application for an award may be sought as provided in 5 U.S.C. 504(c)(2).

§ 1023.329 Payment of award.

An applicant seeking payment of an award shall submit to agency counsel a copy of the Board's final decision granting the award, accompanied by a certification that the applicant will not seek review of the decision in the United States courts. Agency counsel will forward the submission to the appropriate disbursing official. The agency will pay the amount awarded to the applicant within 60 days.

PART 1024—PROCEDURES FOR FINANCIAL ASSISTANCE APPEALS

Sec.

1024.1 Scope and purpose.

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AUTHORITY: Dept. of Energy Organization Act, Pub. L. 95-91, 91 Stat. 577 (42 U.S.C. 7101, et seq.); E.O. 10789; Pub. L. 95-224, 92 Stat. 3 (41 U.S.C. 501-509).

SOURCE: 45 FR 29764, May 5, 1980, unless otherwise noted.

§ 1024.1 Scope and purpose.

These procedures establish a process permitting recipients of financial assistance to appeal adverse final decisions made by financial assistance officers or contracting officers. The objective is to provide a timely, just, and inexpensive resolution of disputes involving grants, cooperative agreements, loan guarantees, loan agreements, or other financial assistance instruments.

§ 1024.2 Authority.

The authority of the Board derives from direct delegation of the Secretary to hear and decide finally for the Department appeals from any decision brought before it on disputes arising under financial assistance agreements.

§ 1024.3 General.

(a) A recipient or party to a grant, cooperative agreement, loan guarantee or agreement, or other such financial assistance may have a right to appeal disputes with the Department. Such a right may be set forth in statutes, in Departmental regulations dealing with the type of financial assistance involved, or in the agreement itself.